



May 4, 1995

Reply To
Attn Of:

Tim L. Nord, Manager
Site Cleanup Section
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600


Tim
Dear Mr. Nord:

Thank you for the informational package you sent regarding the agreement you have forged with Weyerhaeuser Company addressing the Longview Chlor-Alkali Plant mercury problem. The "PLP" funding of your oversight involvement is certainly a commendable approach, particularly where the "PLP" is an environmentally responsible company such as Weyerhaeuser Company.

In short, we concur in the proposed funding and oversight approach. We do ask, however, that you provide both my office and the appropriate resource trustee (fishery) agency(s) information copies of the PLP's investigation and remediation proposals and keep us current regarding project progress.

Thank you again, Tim, for pursuing a resolution of our concerns regarding possible mercury contribution to the Columbia River from the Weyerhaeuser, Longview facility.

Sincerely,


James M. Everts, Program Manager
Superfund Response & Investigations Branch





STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600 • (206) 407-6000 • TDD Only (Hearing Impaired) (206) 407-6006

April 21, 1995

Superfund Response and
Investigation Branch

APR 27 1995

Mr. Jim Evert
HW 113
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, WA 98101

Dear Mr. Evert:

Attached is a prepayment proposal by the Weyerhaeuser Company to undertake remedial actions at several Weyerhaeuser facilities. Weyerhaeuser and Ecology will enter into enforceable agreements on each site. As you will see, it includes the Longview Chemical Plant-Mercury Cell Room Source Areas.

We believe that by approaching these sites through a prepayment agreement, and thus dedicating resources directly to those sites, the most efficient and expeditious cleanup response will be provided.

Given our discussions in the past pertaining to the potential proposed listing of the Longview site on the National Priorities List (NPL), I am requesting your concurrence on the proposed approach prior to entering into any agreement with Weyerhaeuser at the Longview site. As you know, our goal is to successfully cleanup up these sites under state law and not have them proposed, and subsequently placed, on the NPL.

Thank you for all your assistance, Jim. I look forward to your response.

Sincerely,

Tim L. Nord
Manager, Site Cleanup Section

Enclosure

cc: Mike Palko





Weyerhaeuser

MAR 31 1995

March 29, 1995

Mike Palko
WA State Dept. of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

Re: Prepaid Cleanup Oversight Agreement between Weyerhaeuser Company and
Department of Ecology

Dear Mr. Palko:

Attached is a "prepayment" agreement between Weyerhaeuser and Ecology, executed for the purpose of accelerating Ecology oversight of remedial actions at several Weyerhaeuser facilities. As written this agreement obligates Weyerhaeuser to reimburse Ecology up to \$100,000 for services. A deposit in the amount of \$25,000 is attached to cover initial Department expenses.

Through this agreement, we desire to enter into several MTCA enforcement agreements for the purpose of conducting either remedial investigation and/or implementing remedial actions at the following locations:

- Longview Chemical Plant-Mercury Cell Room Source Areas
- Longview Complex-Petroleum Contaminated Soils Mixed with Wood Waste
- Everett Complex-East Side Operable Units
- Everett Complex-Mill E/Beazer Site, and
- Former Columbia River Sawmill

At each of these sites, we have already conducted substantial remedial investigation work and in some cases implemented remedial action under Ecology's independent remedial action program. Given that activities at each site are at various stages of the remediation process, we would propose, once the "prepayment" agreement is executed, that an initial planning meeting be held between Ecology and Weyerhaeuser to establish project specific timelines.

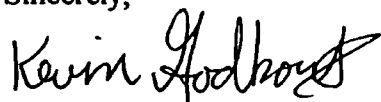
At several of the sites, we desire to conduct remedial actions during the upcoming summer field/construction season. Thus, it is important that we develop project timelines to support those activities. Should your schedule allow, we would like to arrange the initial meeting at your earliest convenience.

As we have discussed, it is our expectation that Ecology will staff the project with a single site manager, who is functionally supervised by the Ecology Industrial Section Manager. We look forward to working with Ecology on this project and we appreciate your willingness to assist us with this effort.

Mr. Mike Palko
March 29, 1995
Page 2

Please contact me with your questions at (206) 924-3878.

Sincerely,



Kevin Godbout
Environmental Affairs Manager

cc: Mary Burg, Ecology
Tim Nord, Ecology
Paul Skyllingstad, Ecology
Jim Odendahl, CH1J29

ENC.



Tacoma WA 98477

WACHOVIA BANK OF NORTH
CAROLINA, N. A.
RALEIGH, NC 27611

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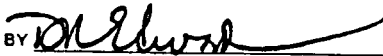
PAY TWENTY FIVE THOUSAND AND 00/100 DOLLARS
EXACTLY

CHECK DATE	CHECK NUMBER	T
03/28/95	78215323	
*****25,000.00		
CHECK AMOUNT		

NOT NEGOTIABLE AFTER 6 MONTHS FROM DATE OF CHECK

TO THE
ORDER
OF
STATE OF WASHINGTON
DEPT OF ECOLOGY
PO BOX 47600
OLYMPIA WA 98504-7800

WEYERHAEUSER
BRANCH VOUCHER ACCOUNT

BY 

⑈78215323⑈ ⑆053107633⑆015806 094500⑈



Tacoma WA 98477

PLEASE DETACH BEFORE DEPOSITING

ATTACHED IS OUR CHECK IN PAYMENT OF ITEMS LISTED. IF NOT CORRECT, PLEASE CONTACT APPROPRIATE LOCATION.

SUPPLIER NO.	CORP. NAME	CHECK NO.	T
20-000-700000041	WEYERHAEUSER	78215323	

LOCATION	BATCH NO.	INVOICE NO.	REF. NO.	AMOUNT	DISCOUNT	NET AMOUNT
	TB722	MTCA SUPPORT		25,000.00	.00	25,000.00
SEE REVERSE SIDE FOR LOCATION CODE EXPLANATION.				TOTALS →		
				25,000.00	.00	25,000.00

AGREEMENT

Between the

State of Washington, Department of Ecology

and

Weyerhaeuser Company

This Agreement is made and entered into between the Washington State Department of Ecology, hereinafter referred to as "Ecology," and Weyerhaeuser Company, hereinafter referred to as "Weyerhaeuser."

WHEREAS, Ecology is responsible for the implementation of the Model Toxics Control Act (chapter 70.105D RCW, hereinafter "MTCA") and its implementing regulations (chapter 173-340 WAC);

WHEREAS, Weyerhaeuser owns or is considering the acquisition of properties contaminated by hazardous substances; WHEREAS, owners of property contaminated by hazardous substances are potentially liable persons under the MTCA; and, Weyerhaeuser has accepted responsibility as a potentially liable person;

WHEREAS, Ecology is limited, by its budget, to cleaning up and/or ordering the cleanup of only the highest priority contaminated sites;

WHEREAS, Weyerhaeuser agrees to provide Ecology with funds which will be used by Ecology to hire or maintain staff person(s) to perform certain tasks identified in this Agreement; and

WHEREAS, the funds paid by Weyerhaeuser pursuant to this Agreement are remedial action costs under chapter 70.105D RCW, however, Weyerhaeuser may incur costs for this remedial action beyond the cost of this Agreement.

NOW, THEREFORE, in consideration of the promises hereinafter contained, the parties agree to the following:

PAYMENT OBLIGATIONS.

Weyerhaeuser agrees to pay Ecology up to \$100,000 for the services described herein and in Attachment A, which by this reference is incorporated into this Agreement. Weyerhaeuser agrees to pay a minimum of twenty-five percent of the total Agreement amount, or \$25,000 as a deposit within ten (10) days after execution by both parties of this Agreement. The Weyerhaeuser Company's payment shall be deposited in the State Toxics Control Account, hereinafter referred to as the "Account," and remain there for the duration of the Agreement. Ecology shall thereafter invoice Weyerhaeuser on a quarterly basis for services rendered the previous quarter. Failure to pay Ecology's costs within ninety (90) days of receipt of a quarterly invoice may result in interest charges. All interest earned on the deposited funds shall remain in State accounts.

Compensable services shall include, but not be limited to, Consent Decree and/or Agreed Order preparation, negotiation, oversight, administration, and related work. Except that if Weyerhaeuser chooses to conduct an independent remedial action, Ecology may be compensated for services contemplated by WAC 173-340-130(3). For sites where Weyerhaeuser conducts independent remedial actions, they do so at their own risk and may be required to take additional remedial actions if Ecology deems such actions necessary.

Costs incurred shall include costs of direct activities and support costs of direct activities. Costs of direct activities shall include salary for all time attributable to this Agreement, including leave and holiday accruals, training, meetings, all employee benefits, goods and services, travel, and equipment; salary and employee benefits of other departmental staff who work to fulfill the obligations of this Agreement; equipment necessitated by the addition of the staff hired for this Agreement, as well as laboratory costs and contractual costs attributed to this Agreement. Staff costs shall be charged based on the equivalent of salaries, benefits, leave/holiday accruals, and

indirect costs (both program and agency) on all hours worked on this Agreement. Hours worked shall include supervision, training, and other reasonable support functions. All equipment paid for under this Agreement, shall become Ecology property and will remain the property of Ecology after termination of this Agreement.

COSTS RECOVERED FROM OTHER PARTIES

The parties intend that Ecology will, in all cases involving cleanup of Weyerhaeuser sites under MTCA, achieve 100 percent recovery for its costs. Ecology does not intend to recover more than 100 percent of costs of any project.

PERIOD OF PERFORMANCE

This Agreement shall be effective on the date it is executed by the parties and shall remain in effect for a period of one year from such date, unless terminated sooner as provided herein.

HOLD HARMLESS

Each party shall defend, protect and hold harmless the other party from and against all claims, suits or actions arising from any intentional or negligent act or omission of its employees, agents, and/or authorized subcontractor(s) while performing under the terms of this Agreement.

RECORDS SUPPORTING REQUEST FOR PAYMENT

Ecology shall maintain all records supporting every request for payment in a manner which will provide an audit trail of the expenditures made pursuant to this Agreement and shall be available to Weyerhaeuser or its representatives upon request.

TERMINATION

Each party may terminate upon thirty (30) days' written notice if the other party has breached any of the terms of this Agreement and has failed to remedy such breach within 30 days following

receipt of notice of the breach. Either party may terminate this Agreement for its convenience upon not less than ninety (90) days' prior written notice. Weyerhaeuser shall be obligated for payment pursuant to this Agreement for all work performed prior to the effective date of termination.

DISPUTE RESOLUTION

Except as otherwise provided in this Agreement, any dispute arising under this Agreement concerning the adequacy of performance of this agreement which is not disposed of either by agreement between the parties or by termination, shall be decided by Ecology's Toxics Cleanup Program Manager or other authorized official of Ecology, who shall reduce his/her decision to writing and furnish a signed copy to Weyerhaeuser. The decision of Ecology's Toxics Cleanup Program Manager, or Ecology's authorized official, shall be the final and conclusive decision of Ecology unless, within thirty (30) days from the date of receipt of such copy, Weyerhaeuser mails or otherwise furnishes to Ecology's Toxics Cleanup Program Manager a written appeal addressed to the Director of Ecology. A decision of the Director, or the Director's duly authorized representative for the determination of such appeals, shall be the final and conclusive decision of Ecology.

Review of the decision of Ecology shall not be sought under chapter 43.21B RCW. Any action or proceeding brought to enforce or otherwise arising out of or relating to this Agreement shall be brought in the Superior Court of Thurston County. Pending final resolution of a dispute pursuant to this paragraph, Weyerhaeuser shall proceed diligently with the performance of this Agreement and in accordance with Ecology's final decision.

CONTRACT MANAGEMENT

The work described herein shall be conducted under the coordination of the individuals described in attachment A.

COMPLIANCE WITH LAWS

Both parties agree to comply with all applicable federal and state rules, and regulations.

AGREEMENT ON ALTERATIONS AND AMENDMENTS

Ecology and Weyerhaeuser may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by authorized representatives of both parties.

ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

In witness thereof, the parties execute this Agreement.

DATED this _____ day of _____, 1995.

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Approved as to form only:

Assistant Attorney General

Weyerhaeuser

James P. Odendahl

Director Toxic/Solid Waste
Taden

March 27, 1995

DATE: July 21, 1993

PAGE: 1 OF 3

CANCELS: September 10, 1991

SEE ALSO:

APPROVED BY: _____

POLICY

POL 500C PREPAID CLEANUP OVERSIGHT

Due to limited resources, Ecology cannot work on every contaminated site. However, a potentially liable person (PLP) may wish to begin remedial action at a facility, or several facilities, under its jurisdiction, before Ecology is ready to proceed with any such action. In these situations, the PLP may also desire Ecology's oversight of their remedial actions. If requested, Ecology may enter into an agreement with the PLP to oversee their remedial actions, provided the PLP agrees to pay, in advance, for the department's costs, entering into such agreement is in the public interest, and the terms of the proposed agreement are acceptable to both parties. This policy outlines the requirements and limitations of such an agreement. This policy is not intended to address Independent Cleanups where the PLP is not seeking Ecology Oversight.

1. Prepayment Shall Be Required.

If a potentially liable person has a site which is not prioritized for immediate action by the department, and wants to clean it up with the department's advice and oversight, then he/she may request an agreement with the department to pay for such oversight. Prepayment of such costs will be required. Prepayment methods shall be written into such agreement, and shall include a requirement that deposits be made before work is begun. Such deposit shall remain in the account until the last billing. All interest earned on that deposit will remain with the State of Washington.

2. Status As A Potentially Liable Person Shall Be Accepted In Prepayment Agreements.

Persons entering into a prepayment agreement with the department must, for the purposes of the agreement, accept their status as a potentially liable person.

3. Potentially Liable Person(s) Agree(s) To Negotiate A Consent Decree.

The Potentially Liable Person(s) agree(s) to enter into negotiations on a Consent Decree or Agreed Order covering the anticipated actions on the site.

4. The Agreement Shall Address All Phases of Work.

In order for the department to commit to an agreement the potentially liable person must be willing to address all phases of work within the prepayment agreement. This agreement shall estimate the direct and indirect cost the department will expend to oversee all phases of cleanup from initial investigation through long-term monitoring.

5. Prepayment Will Be Accomplished Through Formal Agreements.

The formal agreement for prepayment of the department's technical assistance will take the form of either an Interagency Agreement (I/A) when the entity is public or a Memorandum of Understanding (MOU) when the entity is private. These agreements shall cover all anticipated costs (through all phases). These agreements shall not replace, but be preliminary to, or work in conjunction with, any Consent Decrees or Agreed Orders which occur to effect the cleanup. When a Consent Decree or Agreed Order is in place to cover remaining anticipated costs, the Consent Decree or Agreed Order may replace the original agreement, provided the Consent Decree or Agreed Order includes all costs covered by the original agreement.

6. Prepayment Agreement Shall Include the Full Cost of Hiring and Maintaining Extra Staff.

Because all new employees require extensive training and supervision, and experienced employees require continued training and direction to remain effective, it is essential that the costs of a proportional share of the training and management activities be covered by the prepayment agreement. It is necessary for employees working on prepayment agreements to be able to charge a proportionate share of that time to the prepayment projects, and not be an excessive drain on current funding which is dedicated to work on priority projects. Costs will therefore be higher for Prepayment than they would be if the project were high enough priority to be scheduled in the department's workplan. It is the intent of this policy to allow work on projects which are not a high priority for the department with resources (including employees) hired specifically for prepayment project(s), and without the use of resources (including employees) dedicated to projects which are a high priority for the department.

DATE: July 21, 1993

PAGE: 3 OF 3

CANCELS: September 10, 1991

SEE ALSO:

This does not preclude other Toxics Cleanup Program (TCP) staff from charging to this Agreement, provided they follow Site Log Policy (550B) and Procedures.

8. Public Notice Shall Be Required For All Such Agreements.

The department shall provide public notice on all agreements consistent with WAC 173-340-600. This includes notice to those who have made a timely request, those residing in the potentially affected vicinity, the newspaper of largest circulation and a public comment period. Notice will also be provided in the Site Register.

9. Agreements Shall Be Amendable.

Anytime the department estimates that advice and oversight will require more staff time, more dollars, or a longer period of time, the agreement shall be amended to reflect the new estimate.

10. Amendments To These Agreements Will Also Have Public Notice.

All substantive changes to these agreements shall receive public notice and comment.

11. This Policy Shall Be Reviewed By The Toxics Cleanup Program Management Team At Least Once Every Two Years.

At least once every two years, the TCP Management Team shall consider the status of the Prepayment program, comments and concerns expressed since the last revision, and consider the need for further revision.